

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.105 of 2006

M/s.S.R.Fashions.

...Petitioner

vs.

M/s.APS International Inc.

...Respondent.

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Mr.M.N.Thakore with Ms.Jyoti Ghag i/b. M/s.Thakore Jariwala & Associates, for the Petitioner.

None for Respondent.

**CORAM: D.K.DESHMUKH,J.**

**DATED: 4<sup>th</sup> April, 2006.**

**P.C.:-**

1. The Institution which, according to the arbitration clause, can make appointment of Arbitrator had by letter dated 16.2.2006 informed the petitioner that they did not have arbitral panel in the Association, and therefore, the remedy of the petitioner was to apply to the Chief Justice of this Court under sub-clause (6) of Section 11 of the Arbitration and Conciliation Act,1996 for constitution of arbitral tribunal. Admittedly, the petitioner did not take that step, instead the petitioner wrote a letter to the respondent asking the respondent to

make payment and nominating its nominee on the arbitral tribunal. Therefore, it cannot be said that the petitioner has taken steps to set up the arbitral tribunal constituted in accordance with the agreement. In these circumstances therefore, the petitioner would not be entitled to any interim order under Section 9 of the Act. The petition is therefore, disposed of.

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